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Guest Opinion: Senate Bill 78 would keep public waterways accessible

**By HUGO TURECK**

I grew up in a small city and spent much of my summers with my friends riding our bikes to and fishing the small streams and rivers that dot the Gallatin Valley. Senate Bill 78, the stream access bill, ensures that others can enjoy what I took for granted.

I have the privilege of owning and working a farm/ranch in central Montana. However, I have never forgotten my childhood experiences. As I followed the progress of SB78 in the Senate, I was angry, dismayed and disappointed to find out that two of the groups lobbying against the bridge access bill were farm organizations, the Montana Stockgrowers Association and the Montana Farm Bureau. The central theme of their efforts was that SB78 violates private property rights.

Senate Bill 78 does not violate private property rights. Let me assure you that if this bill violated property rights, all of the major farming organizations would be screaming, including the Montana Farmers Union and the Montana Cattlemen's Association. For that matter, the Montana Chamber of Commerce would have weighed in.

### **Constitutional decisions**

The Montana Constitution in Article IX, Section 3 states that all waters within the boundaries of this state "are the property of the state for the use of its people." In 1985, the Stockgrowers and other farm organizations worked with sportsmen and other recreational groups in passing stream access legislation. It stated that the water, the stream bed and the high-water marks were property of the state and therefore open to the people of Montana. Senate Bill 78 does not change any of this earlier legislation that has been upheld by the Supreme Court.

What SB78 addresses is the public's right to access what is already theirs by using public right of way. This legislation would allow ranchers to fence across the public right of way to the bridge as long as there is some reasonable access to the stream such as a gate, PVC over the top-wire strand or some sort of pass-through.

This legislation protects both the property owner and the public. Why then the opposition by these two farm groups?

If the landowner can effectively lock the public out of what is rightfully theirs, they then take control of streams. This in turn makes these landscapes their private domain either to enjoy exclusively or to lease to outfitters or others.

### **Driving up land prices**

A more chilling effect would be the increase in land values adjacent to these streams. These organizations claim they are representing agricultural interests. My argument is that they are actually harming agricultural interests. By increasing land values, these landscapes are no longer viable as working farms but as playgrounds for the rich who happen to mostly come from out of state and do not hold Montana values. Those who want to farm and ranch would be locked out by land values based on recreation not on agricultural production.

My wife and I have four children, two of whom live in cities, and five grandchildren, four of whom live in cities. Most of us who work the land know that most of our children and grandchildren will live in cities.

This bill protects them and we owe it to them to support this legislation. How can we expect our young to learn to love and respect nature if they cannot access these places? SB78 is not about people losing their private property rights. The bridge access bill is about us assuming our public responsibility.

This good legislation passed in the Senate 36-14 on a rare moment of bipartisanship. Let's hope the House will act in a similar manner.

*Hugo Tureck ranches at Coffee Creek, has been a member of the Bureau of Land Management Resource Advisory Committee and was an unsuccessful candidate for Montana Legislature. The House Fish, Wildlife and Parks Committee has scheduled a hearing on SB78 at 3 p.m. today in the Capitol.*